MONTANA UNDERGROUND STORAGE TANK PROGRAM NEWSLETTER

MUST News

Glacier National Park, Two Medicine Valley
Photo by Big Sky Fishing.com

Department of Environmental Quality **Winter Issue 2008**

The BIG RELEASES

by Bill Hammer and Bill Rule

Large petroleum releases bring a lot of introspection to the tank programs at DEQ. We had another one this fall. Michael's Exxon in Kalispell leaked over 10,000 gallons of fuel into the environment. How could they lose so much fuel? Early reports indicate that leak detection alarms went unanswered.

Lakeside General Store, May 2000 – 14,500 gallons lost; Ezzies Westside Self Service, Malta, December 1996 – 1200–1400 gallons lost; Dillon Town Pump, December 2002 – 800 gallons lost. What do these huge releases have in common? Facility staff didn't trust their alarms to be warning them of a release. In some cases, a facility's staff became desensitized because of "false positives," alarms caused by something other than a release.

continued on page 2

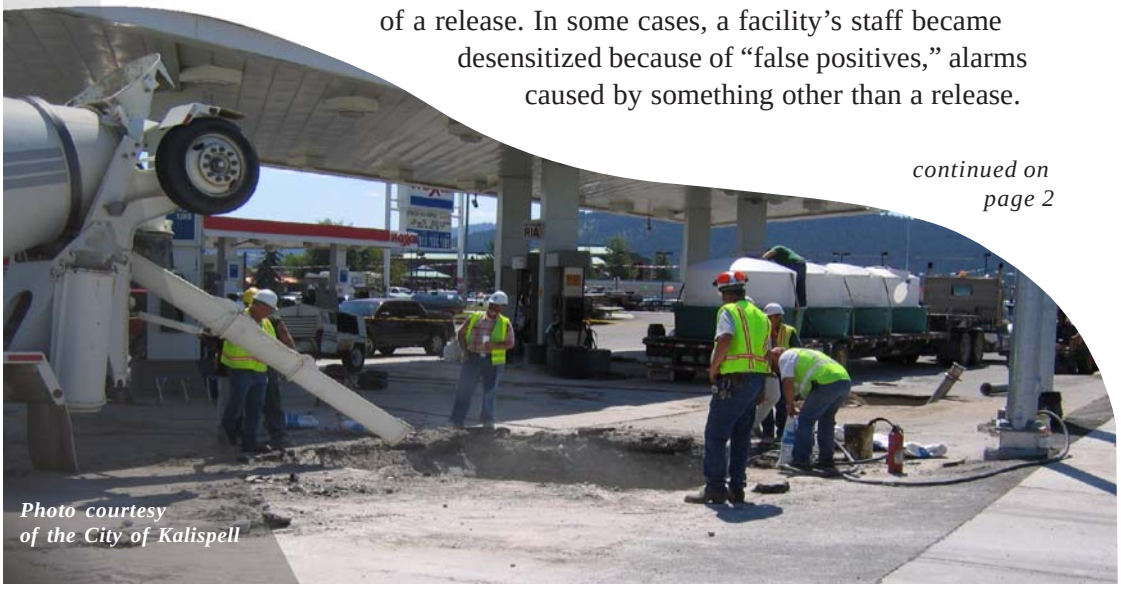

Photo courtesy of the City of Kalispell

Inside This Issue

Montana Department of Environmental Quality

Underground Storage Tank Section
1520 East Sixth Avenue • Helena, MT 59620-0901
Phone: 406-444-5300 • Fax: 406-444-1374
E-mail: ustprogram@mt.gov • UST Web: www.deq.mt.gov/UST/index.asp

Petroleum Technical Section • Petroleum Tank Release Compensation Board
Leaking Underground Storage Tank (LUST)/Brownfields Section
1100 North Last Chance Gulch. • P. O. Box 200901 • Helena, MT 59620-0901
Phone: 406-841-5016 • Fax: 406-841-5091
Remediation Web: www.deq.mt.gov/rem/index.asp

The Big Releases - *continued from page 1*

From the inception of UST regulation, the regulatory mission has been release prevention and early detection.

Early Detection
Early leak detection is too often compromised by either unreliable leak detection or an operator gambling that their leak detection is unreliable. All tank systems will fail eventually; it's merely a matter of time.

At Lakeside, the leak was small and only apparent when the dispenser was pumping. Dirty sumps masked the visual evidence when troubleshooters checked sumps for problems. The sump was not liquid-tight, so diesel flowed into Flathead Lake for months as that pesky alarm was reset so many times it burned out. Meanwhile, inventory records were showing significant losses.

At Westside Self Service, the line leak detection alarm had been sounding for some time. It was turned off mid-afternoon Sunday, December 29th. No one had investigated why the alarm was sounding. Out-of-sight and out-of-mind beneath the dispenser housing, a cracked fuel filter was spewing unleaded gasoline with each paying customer. On Monday, a shortage in inventory was noted. The alarm was still disabled. By Tuesday, gasoline was flowing from beneath the dispenser. The sumps were full of gasoline and the inventory was short 1200 to 1400 gallons.

In Dillon, the system was new and alarms were thought to be installation bugs. Nobody checked the sumps to find out differently. On December 8, 2002, the diesel sump alarm triggered for the first time. On the 9th, the premium sump alarm triggered. On the 10th, the unleaded sump alarm triggered. An attempt to fix the problem in one dispenser sump was thought successful (no other sumps were investigated), but later that day three dispenser sump alarms sounded again within minutes of each other. On December 11, a dispenser sump triggered again; a minute later another dispenser sump alarm went off. On the 12th, sump alarms went off again. This time a thorough inspection revealed a leaking O-ring and a multiple-sump secondary containment system overflowing with diesel.

Suspected Releases
What is a facility's obligation to research leak detection alarm conditions? Operators must investigate the cause of the alarm. If, after that investigation, they cannot rule out a petroleum release to the environment or to secondary containment (tank or piping interstices or sumps), they must call in a suspected release to the department within 24 hours. If they cannot figure out the cause, or cannot get someone to investigate the cause within 24 hours, they must call in a suspected release. DEQ won't show up with sirens blaring. Our job is to ensure the cause of the alarm is found and resolved.

If the facility operator can find the cause of the alarm and determine that the cause was not a release (e.g. water in a sump), they do not have to call in a suspected release. But finding the cause and silencing the alarm is not enough. The problem will continue until someone eliminates the cause.

For example, "fixing" the above "water intrusion problem" by anything other than preventing it will compromise or disable most interstitial leak detection. If an operator lifts the sensors out of water's way, leak detection is disabled. If water keeps setting off the alarm, facility staff will not trust their leak detection alarms. These conditions are ripe for big releases. Is reoccurring water in secondary containment sumps a problem? We think so.

So what is DEQ doing about this?
Leak detection systems must be trustworthy, operators must trust them. If either of these links is broken, early leak detection breaks down.

We try to ensure that decent equipment is installed properly. The Energy Policy Act of 2005 and subsequent Montana regulations now require that new systems be of double-walled construction and employ interstitial monitoring. They require that sumps be installed under dispensers and employ interstitial monitoring. These requirements will eventually result in Automatic Tank Gauging consoles being installed at most facilities.

continued on page 3

The Big Releases - *continued from page 2*

We do our best to keep operators tuned into their leak detection equipment by requiring monthly record keeping. We continually hear this tool trivialized as bureaucracy run amok. Yet, this monthly requirement is often forgotten or ignored precisely because it is so minimal. If we could somehow encourage operators to interact with their leak detection equipment daily, we would.

Some monthly record keeping documents actual leak tests. We assume that if you keep the test results, that you've looked at them – maybe not the best of assumptions but it's what we have.

For continuous monitoring, monthly records document operability tests to ensure systems are operating properly. "All functions normal" and "sensor normal" indicate that sensors are in communication with the console, and that any alarm is worth investigating.

The Energy Policy Act also requires that DEQ train facility operators by 2012. Our best hope is that we can teach operators how to make friends with their leak detection equipment so that they can trust it and respond to it appropriately. As we conceptualize the rules that will implement Operator Training, we are considering adding the requirement that leak detection alarm conditions shut down the turbine pumps. This would remove most of the potential for human error.

Alarms, when observed, are too often ignored when continuing operation is valued higher than investigating the chance of a release. If you don't trust your equipment these may be decent odds, but it's a terrible gamble. Ask the operators who lost that wager. ■

Reporting Initial Information About Releases

The Department of Environmental Quality (DEQ) requires owners and operators (O/Os) of petroleum storage tanks to provide specific initial information when a release is confirmed. We refer to it as "initial information," because we don't want to confuse it with more scientific release and site data that will be generated during the investigation and cleanup. Initial information are those facts concerning the tanks, the facility, and circumstances of the release that are readily known starting when a release is discovered and running through the initial response actions taken to address the release.

When a new release is confirmed, owners and operators of the tank system must conduct initial response actions, which include notifying DEQ. They must also gather specific information that is required under the Administrative Rules of Montana. These rules can be found on the Internet at: **www.deq.mt.gov/dir/legal/Chapters/Ch56-05.pdf** and **www.deq.mt.gov/dir/legal/Chapters/Ch56-06.pdf.**

To make this as simple as possible for the O/Os while ensuring accurate data, DEQ has consolidated much of it into two forms.

24-Hour Report Form

The first report is the 24-Hour Initial Release Response Report. This form is filled out by the DEQ project manager who verbally collects the required information from the reporting party, which is usually done over the telephone. Required information includes specific data concerning:

- The facility and its location;
- Owners and operators of the USTs;
- Tanks located at the facility;
- How the release was discovered and its source and cause;
- Known impacts from the release to surface water, groundwater, drinking water, and other receptors;

continued on page 4

Reporting Initial Information About Releases - *continued from page 3*

- Local fire, health, public works officials who have been contacted;
- Insurance policies that may cover actions necessary to respond to the release;
- Details about how the release has been addressed up to the time of the notification, and plans for continuing work to address the immediate impacts.

Because the release has just been confirmed, the reporting person may not know all of the information requested, but should provide as much information as possible and let the DEQ project manager know when they collect the information. The project manager may require the owner or operator to call back with additional information when it is known.

30-Day Report Form

Following the initial report, DEQ will mail a blank Petroleum Release Notification – 30 Day Report Form. Some of this information is similar to the 24-Hour Form, but with more detail and updates added. It also requires a written description of the activities taken to address the release, disposal of any soil or liquid wastes generated during the release response, a site sketch map, facility history, groundwater and environmental information, and complete information about surrounding water wells, buildings, and utilities. The O/O may have to research or go to a little effort to gather all the required details. This is why DEQ gives 30 days before the form must be completed and returned. The DEQ project manager is also available to explain the form and provide advice and assistance in gathering some of the technical information.

Why is this Information Important?

DEQ uses the information to evaluate releases and determine what assistance we can provide to the O/O or what level response we need to take. DEQ needs to understand known impacts and potential threats to human health and the environment in order to prioritize resources and the state's response actions. DEQ also compiles information concerning the sources and causes of releases from active tank systems to determine what can be done to prevent future releases. This information is shared with the U.S. Environmental Protection Agency (EPA) to see whether national trends show broader areas where they need more leak prevention emphasis. We also make this information available to the public so O/Os, tank installers, and others can make their own changes to prevent future releases and protect human health and the environment. Finally, failure to report this information is considered a significant violation, potentially subject to a formal enforcement action with penalties. Early reporting of this information can significantly prevent the tremendous cleanup costs, risks to human health, and environmental damage caused by "Big Releases" discussed in the first article of this newsletter. ■

Petroleum Release Reporting Rule Changes

The Department has amended its administrative rules pertaining to petroleum release reporting and adopted a new rule that describes how the department assigns petroleum release identification numbers. A copy of the rules can be found on the state's website at: **www.deq.mt.gov/dir/Legal/Chapters/Ch56-toc.asp**. See Administrative Rules of Montana (ARM) Title 17, Chapter 56, sub-chapters 5 and 6.

Reporting Suspect Releases

The amendment to ARM 17.56.502 increases the concentration of extractable petroleum hydrocarbons (EPH) in soil that triggers the requirement to report a suspect release from 50 milligrams per kilogram, or parts per million (ppm), to 200 ppm. This rule amendment is necessary to incorporate revisions to Montana's Tier 1 Risk-Based Corrective Action Guidance for Petroleum Releases (RBCA). The recent revisions to RBCA are discussed in more detail

continued on page 5

Petroleum Release Reporting Rule Changes - *continued from page 4*

in the "2007 RBCA Revisions," article on page 7 of this newsletter. After December 21, 2007, the effective date of these rule amendments, soil samples with EPH results ranging from 50 to 199 ppm no longer need to be notified to the department as suspect releases. Soil samples at, or exceeding 200 ppm EPH, must be notified as a suspect release and fractionated during laboratory analysis to determine whether any specific risk-based screening levels (RBSLs) are exceeded. If any of the fractions exceed RBSLs, published in RBCA, a petroleum release is confirmed and the department must be notified of a confirmed release in accordance with ARM 17.56.506.

Updates to Referenced Documents

The administrative rules adopt and incorporate certain regulatory and guidance documents. It is necessary to periodically update ARM 17.56.507 and 17.56.608 to incorporate the most current versions of the documents adopted by reference in the rules. The December 21, 2007 rule amendments adopt the latest version of RBCA (October 2007). RBCA is published by the department to list the risk-based screening levels (RBSLs) used to evaluate whether concentrations of listed contaminants pose an unacceptable risk to public health or the environment given generic assumptions about the contaminated media and exposure scenarios. RBCA is revised and updated regularly as new information becomes available. The specific updates to RBCA are discussed in more detail on page 7 of this newsletter in the "2007 RBCA Revisions" article.

The rule amendments also incorporate the most current version of Department Circular WQB-7, "Montana Numeric Water Quality Standards" (February 2006) at ARM 17.56.608.

Department Circular DEQ-7 contains numeric water quality standards and trigger values for contaminant levels in surface and ground waters designed to protect the current and future uses of surface and ground waters in the state of Montana. Department Circular DEQ-7 is used by DEQ as a regulatory standard for cleanup levels of listed contaminants in state waters. Specific changes to DEQ-7 are discussed in the RBCA article "2007 RBCA Revisions," on page 7 of this newsletter. Department Circular DEQ-7 is updated regularly as new information becomes available. It is necessary to amend ARM 17.56.608 to incorporate the latest version of DEQ-7 because a petroleum storage tank release cannot be categorized as resolved until contaminant concentrations in impacted waters are reduced to levels below numeric standards listed in DEQ-7. The adoption of

The 2007 revisions to RBCA incorporate updates to the RBSLs published in the October 2003 edition of RBCA. The proposed revisions to RBCA fall into six categories:

(1) updates to the application of volatilization factors. DEQ is now utilizing the same approach as EPA Region 9 for its preliminary remediation goals (PRGs). Volatilization factors are applied to those chemicals having a Henry's Law constant greater than 10^{-5} (atm-m^3/mol) and a molecular weight less than 200 g/mole;

(2) updates to the calculation of dermal factors related to soil exposure;

(3) updates of toxicity factors for some of the petroleum fractions as well as toluene;

(4) minor corrections and changes to the direct contact spreadsheets based upon current guidance and policy;

(5) updates related to DEQ-7 including recalculation of RBSLs based on the risk of soil contaminants leaching to groundwater; and

(6) addition of RBSLs for lead scavengers ethylene dibromide (EDB) and 1,2 dichloroethane (1,2 DCA).

continued on page 6

Petroleum Release Reporting Rule Changes - *continued from page 5*

the revised DEQ-7 is necessary to ensure that water quality standards relied upon for cleanup of petroleum releases are consistent with the latest standards adopted by the Board of Environmental Review.

Correcting Typographical Errors
Two rule amendments were necessary to correct typographical errors. The amendment to ARM 15.56.604(3)(f)(ii)(B) replaces the word "aerial" with the correct word "areal" in the context of reporting the areal extent of free product in a remedial investigation. The amendment to ARM 17.56.607(4)(b) is necessary to replace the word "elevated" with the word "evaluated" in the context of evaluating risks to human health, safety, and the environment from residual contamination.

Numbering Petroleum Releases
The department adopted a new rule, now codified at ARM 17.56.508, that describes the way the department assigns unique release identification numbers to petroleum releases. This new rule adopts informal guidelines for release identification that the department has operated under since 1989. The department determined that it was necessary to formalize these guidelines in order to ensure their consistent application and to give the regulated community notice of the department's process for determining and identifying petroleum releases.

With a few exceptions, all petroleum contamination from petroleum storage tanks at a facility found during investigation and cleanup of a confirmed release is considered part of the previously confirmed release. Historic contamination discovered at a facility during investigative and corrective actions to address a confirmed release are attributed to, and incorporated within, the previously confirmed release. This is consistent with insurance industry practice to consider all contamination discovered during a site investigation to be "one occurrence" or "one release."

The exceptions to the general "one release" rule are set forth in (2) of the rule. The exceptions to the general rule are as follows:

Additional release numbers may be assigned where:

(a) a separate release occurred after the earlier release was categorized as resolved;

(b) a release from petroleum storage tanks began after the date the previously confirmed and numbered release was discovered; or

(c) petroleum contamination is found to originate from a different facility.

The department must determine whether any of the exceptions to the general "one release" rule apply based upon substantial credible evidence. ■

2007 RBCA Revisions

Montana Tier 1 Risk-Based Corrective Action Guidance for Petroleum Releases (RBCA) is a document published by the Montana Department of Environmental Quality, Remediation Division (DEQ-REM). Risk-based screening levels (RBSLs) listed in RBCA are used to evaluate whether concentrations of listed contaminants pose an unacceptable risk to public health or the environment given conservative assumptions about the contaminated media and exposure scenarios. DEQ-REM has recently revised RBSLs based upon new information concerning contaminant chemicals and exposure scenarios. The updated RBSLS are posted on DEQ's website: **http://deq.mt.gov/rem/hwc/rbca/LinksTOC.asp**

The 2007 revisions to RBCA incorporate updates to the RBSLs published in the October 2003 edition of RBCA. The proposed revisions to RBCA fall into six categories: (1) updates to the application of volatilization factors. DEQ is now utilizing the same approach as EPA Region 9 for its preliminary remediation goals (PRGs). Volatilization factors are applied to those chemicals having a Henry's Law constant greater than 10^{-5} (atm-m^3/mol) and a molecular weight less than 200 g/mole; (2) updates to the calculation of dermal factors related to soil exposure; (3) updates of toxicity factors for some of the petroleum fractions as well as toluene; (4) minor corrections and changes to the direct contact spreadsheets based upon current guidance and policy; (5) updates related to DEQ-7 including recalculation of RBSLs based on the risk of soil contaminants leaching to groundwater; and (6) addition of RBSLs for lead scavengers ethylene dibromide (EDB) and 1,2 dichloroethane (1,2 DCA). Lead scavengers were added to leaded gasoline to help volatilize tetraethyl lead to prevent it from fouling internal combustion engines. EDB and 1,2 DCA may still be found in leaded aviation gasoline. EDB and 1,2 DCA are carcinogens and are persistent in the environment.

These revisions to RBCA identify unacceptable risks to human health and the environment from petroleum releases. Because current information suggests that higher RBSLs for some compounds are still protective of human health and the environment, many of the revised RBSLs are less conservative than levels adopted in the October 2003 RBCA, and will result in resolution of some petroleum releases where further expenditure or resources would result in little increased protection for public health, safety, or the environment.

This amendment is necessary to incorporate the updated levels so that owners and operators of petroleum storage tanks and the department can properly evaluate the potential risk a release poses to public health or the environment without conducting a complete site-specific risk assessment. Additionally, RBCA is updated regularly as new information becomes available. Once the updated version of RBCA goes into effect, the prior versions are not available to the public. It is necessary to adopt the latest version of RBCA to avoid confusion over the applicable screening levels that trigger release reporting.

Substantial changes were also incorporated into the text. The definitions section and the main text now includes information for the lead scavengers EDB and 1,2 DCA.

The soil screening concentration for determining if a sample needs to be fractionated has changed from 50 parts per million (ppm) to 200 ppm. This increase is reflective of the change in the RBSLs where the lowest RBSL for the diesel range compounds currently is 200 ppm for the C9-C18 aliphatic fraction.

Table A – "Testing Procedures for Soils" has been expanded to include RCRA Metals and Oxygenates & Lead Scavengers. In the 2003 version of RBCA, MTBE, benzene, toluene, ethylbenzene, xylenes, and naphthalene (MBTEXN) analysis was required if the extractable petroleum hydrocarbons (EPH) screen concentration exceeded 50 ppm. In the 2007 version, volatile petroleum hydrocarbon (VPH) analysis is

continued on page 8

2007 RBCA Revisions - *continued from page 7*

required for a majority of the petroleum products regardless of the EPH screen concentration.

Table B – "Testing Procedures for Groundwater" has been expanded to include Oxygenates & Lead Scavengers. The EPH screening concentration has been increased from 300 parts per billion (ppb) to 500 ppb as a result of increases in the groundwater RBSLs. The RBSL for the C11-C22 aromatic fraction was 300 ppb in 2003 and the most conservative RBSL in the 2007 RBCA is 500 ppb for the C9-C18 aliphatic fraction.

A section on EPH Screen versus total extractable hydrocarbons (TEH) in groundwater has been included. A section describing the VPH/EPH sampling protocol has also been added. This section also includes Table C which contains information on appropriate analytical and preservation methods for a variety of parameters. Sections describing Soil Sample Collection and Preservation, Laboratory Data Reporting for Soil Samples and Aqueous Sample Preservation have been added.

A section on Vapor Intrusion has been added. To evaluate vapor intrusion pathways, the EPA recommends using the guidance developed by the Interstate Technology & Regulatory Council (ITRC).

Table 1 – "Tier 1 Surface Soil", Table 2 – "Tier 1 Subsurface Soil", and Table 3 – "Tier 1 Groundwater RBSLs and Standards" have been updated and incorporate the revisions previously mentioned.

The 30-Day UST Release Report in Appendix A has been updated to be compliant with the 2005 Energy Act.

The Master Table (Appendix C) has been updated to reflect revisions in the direct contact risk equation calculations and also includes leaching and direct contact values for 1,2 DCA and EDB.

Appendix D – Vadose Zone Modeling Technical Support Document has been modified to incorporate 1,2 DCA and EDB leaching modeling.

Appendix E – Direct Contact Technical Support Document has been revised to reflect updates to applying volatilization factors, updates on calculation of dermal factors, updates on toxicity values, minor corrections and changes to the direct contact spreadsheets based upon current guidance and policy; updates related to DEQ-7, and addition of RBSLs for EDB and 1,2 DCA.

Appendix F – Updates to text include revised EPH screen concentrations for soil and groundwater.

Copies of Tier 1 RBCA may be obtained by contacting the:

Remediation Division
Department of Environmental Quality
P. O. Box 200901
Helena, Montana 59620-0901
(406) 841-5000, or at
http://deq.mt.gov/rem/hwc/rbca/LinksTOC.asp.■

Enforcement Matters – 2007 in Review

DEQ's Underground Storage Tank Section (USTS) and Enforcement Division (ENFD) were quite busy during calendar year 2007. DEQ's USTS submitted requests for formal enforcement against 20 facilities for violations identified during routine compliance inspections. Many of these facilities could have avoided formal enforcement had the owners and operators (O/Os) corrected the violations by the date established on the Corrective Action Plan that accompanied the USTS' operating permit showing the facility was in "partial compliance" with the Montana Underground Storage Tank Act. The issuance of a "warning letter" and an accompanying "partial compliance" permit is the final step in USTS' multi-step compliance assistance process that allows the O/O's to correct the violations before a formal enforcement action is requested.

ENFD received approval to take an administrative enforcement action against the O/Os of 17 of the 20 facilities. ENFD initiated administrative enforcement proceedings by issuing orders against the O/Os of nine of those facilities. The remaining enforcement requests are currently in what ENFD calls "case development" stage. This is where ENFD investigates and verifies the facts surrounding each violation and prepares an administrative order. Four of the enforcement actions that were initiated in 2007 were also resolved in 2007.

In addition, 21 enforcement actions from previous years were resolved during 2007. Resolution of an enforcement action means the violating party has complied with the order by returning the facility to compliance and paying the assessed penalty. UST system O/Os paid DEQ over $35,000 in penalties during 2007 with an average administrative penalty being approximately $1,200.

DEQ also received a $38,250 penalty assessed under the Water Quality Act when gasoline from an AST entered groundwater and polluted a drinking water well.

The failure to conduct monthly release detection monitoring and maintain monthly records continues to be the most common compliance deficiency identified during compliance inspections and cited in an order. More often than not, the compliance inspections indicate the O/O is conducting monthly release detection monitoring, but hasn't retained the required monthly documentation.

In many instances, an enforcement action and paying a sizable penalty could have been avoided if the O/Os had maintained the required 12 months of monthly monitoring records. Previous *MUST News*, and most recently the Spring 2007 issue, have contained information on release detection monitoring and record keeping requirements. The most current *MUST News* and older issues dating back to the Fall 2002 issue are available at: **www.deq.mt.gov/UST/MUSTnews.asp**.

From the enforcement perspective, after initiating over 225 enforcement actions, it is far more cost-effective to operate in compliance rather than pay a penalty. The cost of conducting proper monthly release detection monitoring and maintaining records is minimal when compared to the cost of paying a penalty for the violation.

Enforcement Report

Since the Spring 2007 *MUST News*, DEQ resolved the following enforcement actions:

Tyler Etzel, a licensed UST remover, paid a $260 administrative penalty for closing an underground storage tank in Missoula without having a closure permit issued by DEQ.

CHS, Inc. paid a $38,250 administrative penalty for violating the Montana Water Quality Act when a release that occurred at its aboveground storage tank facility in Condon contaminated a domestic water well located on property adjacent to the facility.

continued on page 10

Enforcement Matters – 2007 in Review - *continued from page 9*

Stockton Oil Company paid administrative, judicial, and stipulated penalties totaling $10,665 for violations at four of its facilities. Stockton paid the penalties for failing to perform monthly release detection monitoring and maintain records, failing to report a suspect release, and failing to obtain a compliance inspection within the statutory timeframe.

Kathryn Ogren, d/b/a Clocktower Convenience Store in Missoula paid $1,680 in administrative penalties for failing to obtain a compliance inspection at least 90 days before the operating permit expired and failing to have an appropriate method of line-leak detection. In addition, in a negotiated settlement agreement, Ms. Ogren agreed to pay a $2,000 civil penalty for failing to comply with DEQ's administrative order.

Mariner's Haven & Campground, Inc. was required to pay the suspended portion of an administrative penalty in the amount of $1,350 for its failure to fully comply with the corrective action requirements and timeframes set forth in an administrative order. Mariner's was initially cited for release detection monitoring and record keeping violations, failing to notify DEQ when the facility ownership changed, and installing improperly constructed vapor monitoring wells.

Big Fork Water and Sewer District paid an $825 penalty for failing to register an UST system, operating the system without a valid operating permit, and failing to obtain a compliance inspection within the statutory timeframe.

Mergenthaler Transfer & Storage Co. of Helena paid a $300 administrative penalty for release detection monitoring and record keeping violations.

Teton County Airport Commission paid $1,150 in administrative penalties for release detection monitoring and record keeping violations, failing to obtain a compliance inspection within the statutory timeframe, and failing to install, test, and maintain corrosion protection.

Mulligan's Conoco in Kalispell paid a total of $4,100 in administrative penalties for failing to perform release detection monitoring and maintain records; operating the UST systems without a valid operating permit; and failing to file a compliance inspection report within the proscribed time. Mulligan's also paid a $10,000 civil penalty in settlement of DEQ's court action for Mulligan's violating the administrative order.

Randy Woods, d/b/a Spring Street Exxon in Big Springs paid a total of $1,600 in penalties for release detection monitoring and record keeping violations, and failing to have the corrosion protection system tested as required by the UST rules.

Northern Skies Aviation in Laurel paid a $600 penalty for failing to conduct monthly release detection monitoring on the facility's UST systems. ■


State of Montana
Department of Environmental Quality
UNDERGROUND STORAGE TANK OPERATING PERMIT
Issued to G M Petroleum Distributors, Owner ID#: 1316
for CONOMART SUPERSTORE 2 at 411 E 1ST ST, LAUREL
Facility # 5606966
UST systems APPROVED to receive and dispense a regulated substance (ARM Title 17, Chapter 56).
MT DEQ UST OPERATING TAG
EXPIRES:

Land Transactions

Many of the 4200 phone calls to the Underground Storage Tank Section each year ask about tanks in relation to land transactions. In this *MUST News* we thought we'd distill the basics of tanks and land transactions

DEQ Basics:

Underground Storage Tank Section (USTS) – Permitting of installations, modifications and closures; compliance with upgrade requirements and day-to-day operation and maintenance. **http://www.deq.mt.gov/UST/index.asp**

Petroleum Technical Section (PTS) and Leaking Underground Storage Tank (LUST)/ Brownfields Section – Project management of leaks, releases and spills, and brownfields, real property with environmental contamination or potential contamination. **www.deq.mt.gov/LUST/index.asp**

Petroleum Tank Release Compensation Board (PTRCB) – Reimburses the cleanup costs for eligible contaminated sites after 50% cost share of the first $35,000 in costs. **www.deq.mt.gov/pet/index.asp**

When a person buys property, they are buying responsibility for any existing contamination as well. LET THE BUYER BEWARE!

Non-regulated USTs

- Farm or residential tanks (often heating oil) for consumptive use on the property
- Less than 1,100 gallon capacity
- Installed before April 27, 1995

Even though these tanks are not regulated, any contamination they may have caused is regulated. LET THE BUYER BEWARE!

If The Tanks Are Gone:

The possibility of contamination is the chief concern. If the USTs were registered with the department and properly closed, the USTS may have record of the tank removal and copies of the sampling results. If not, a Phase II site assessment conducted by an environmental consultant offers the best protection.

A site assessment is only as good as the sampling. If contamination is found on the property, it won't matter what previous results indicated. The contamination will need to be cleaned up. LET THE BUYER BEWARE!

If The Tank(s) Are Still There and Are NOT Operational:

If the property houses tanks that were not properly closed in-place, the department will require the owner to pull them and sample for contamination.

Compliance with UST regulations should be considered when buying land. Yet the first concern remains "Is the ground or groundwater contaminated?" Compliance with closure requirements will not alter that ground truth.

If a release is discovered, compliance *may* impact access to Petroleum Tank Release Compensation Funds (PTRCF). The USTS may be able to determine whether violations exist, but only the PTRCB can determine whether those violations impact eligibility.

In many cases, the USTS cannot determine from information in the file whether they regulate a tank system or whether it is in compliance. If the tank was not registered with the department or if use was discontinued before November of 1988, we may have no information about the tank at all.

When the department learns of a tank's existence, we will require that it be permanently and properly closed and that the ground beneath it be sampled for contamination. The owner of the property will be responsible for cleaning up the contamination under the direction of the PRS. LET THE BUYER BEWARE!

continued on page 12

Land Transactions - *continued from page 11*

A found or non-notified tank is considered "active" until the owner asks the department *in writing* to place the system into inactive status. The owner then has 90 days to empty the tank and 12 months to permanently and properly close it. An "Inactive Status Form" can be accessed at **www.deq.mt.gov/UST/PDFfiles/NotifyofInactiveStatus04.pdf.**

More information about inactive status is available at **www.deq.mt.gov/UST/InactiveStatus.asp**.

PTRCF eligibility requires that an owner of a newly found tank submit a permit application to the USTS to pull the tank within 30 days of discovering it.

If The Tank(s) Are Still There and Operational:
The possibility of contamination should be considered. The owner of the property is responsible for cleaning up contamination regardless of who caused it and when. A Phase II site assessment conducted by an environmental consultant offers the best protection. LET THE BUYER BEWARE!

Compliance issues at operational facilities are addressed through third-party Compliance Inspections and Operating Permits. Look to see when the Operating Permit expires. Expiration dates are listed on the following website: **www.deq.mt.gov/UST/MonthlyReportsPDF/USTFacilityOperatingPermitStatus.pdf.**

Information about Compliance Inspections is available at **www.deq.mt.gov/UST/OperatingPermits.asp**.

If the tank systems are inactive the website at **www.deq.mt.gov/UST/InactiveStatus.asp** can tell you how to bring it back into active status.

Notification:
Notification is the USTS term for registering USTs in the name of the owner. Rules require that a new owner notify the department within 30 days of purchasing property with tanks. The department (via the One Stop Licensing Program in the Department of Revenue) will assess annual registration fees whether the tanks are in use or not. When tanks are permanently and properly closed, no further fees will be assessed. The website at **www.deq.mt.gov/UST/NotificationRegist.asp** can give you more information on notification and fees. ■

Petroleum Technical Section has New Supervisor

Please join Remediation in welcoming Dan Kenney to the PTS program – Petroleum Technical Services. Dan Kenney has a Bachelors of Science Degree in Business Administration and has over 21 years experience in the environmental industry. For the past nine years Dan has been an environmental enforcement specialist with DEQ's Enforcement Division, managing over 240 UST and release related enforcement actions, and overseeing spill cleanups from mobile sources and pipelines.

Prior to joining DEQ, Dan worked for a number of environmental consulting firms in Colorado, providing environmental services to both public and private sector clients. His experience includes conducting environmental assessments at federal superfund sites, military installations, and privately held properties; conducting remedial actions at spill sites, asbestos inspections, and emergency response.

Dan brings to PTS exceptional knowledge of the Montana UST Act and its rules, as well as years of experience working with the regulated and private industries from both perspectives.

Thank you Enforcement Division for sharing Dan with us! ■

Enforcement Role in the Work Plan and Claim Reimbursement Process

The question has arisen regarding how the department would view compliance when funding is not available for timely reimbursement of claims for eligible sites. The department is committed to granting reasonable extensions for investigation and cleanup when an owner/operator or consultant is working closely with the board and the department to stage work in such a way the reimbursement of claims can be assured without significantly impacting the environment and human health.

However, in high risk situations where delay would have a high probability of creating worse conditions, extensions would be limited in nature or denied. In such a case, department staff and board staff will be working closely together with the consultant and owner/operator to meet everyone's needs within the limits of their ability.

When extensions have not been requested and work is not done according to plan, owners/operators, and consultants would still be subject to enforcement actions. Similarly, any other noncompliance issues outside the scope of work plan development and implementation for cleanup would not be affected by the work plan and claim reimbursement process described above. Activities outside the scope of the extension process will be subject to enforcement if they are not in compliance with an approved plan.

In summary, the funding shortfall faced by the board is unlikely to result in enforcement actions as long as owners/operators, and consultants seek appropriate extensions and remain in compliance with approved plans. This will require close communication by all parties. ■

Removal of an underground storage tank.

Greg Cross, PTRC Board Member, Begins Third Term

Greg Cross was born in Helena and grew up in Glendive where his father John, and mother Louise, were very much involved in the civic and political life of the community. Greg is the second oldest of six children. Like many his age, Greg is the son of parents of the "Greatest Generation" and like most of us enjoys the life he lives because of the sacrifices they freely gave.

Greg's interest in protecting our precious environment was carefully cultivated by both of his parents, especially his mother who remains an alumna of Montana's 1972 Constitutional Convention. In fact, the environmental laws guiding our Department of Environmental Quality, and our Petroleum Tank Release Compensation Board are the result of the efforts of the 1972 Constitutional Convention, Natural Resources and Agriculture Committee that Louise Cross chaired.

Greg is a graduate of Dawson College, Glendive; Rocky Mountain College and Eastern Montana College (MSU Billings), Billings Montana with a Masters of Vocational Rehabilitation.

After working with the Yellowstone Boys and Girls Ranch for five years he became involved with Cross Petroleum Service where he continues to work today.

He is married to Corrine who keeps very busy as the Vice President of Cross Petroleum Service. Corrine and Greg have two adult daughters; Keila, who teaches tender young minds at Missoula Sentinel; and Lyndsay, who works with her mother and father at Cross Petroleum Service.

Greg has begun his third term as a PTRC board member and continues to appreciate the dedication and commitment of his fellow board members. It is an honor to work with talented people who are committed to the wise use of your Petro funds and the cleanup of petroleum releases. ■

Operator Training Update

USTS continues to conceptualize operator training in a manner that will be achievable and effective. Owners of multiple facilities have been volunteering to help us shape the initiative.

We want to consult with owners of one or two facilities also. Their needs will be different. We would especially appreciate volunteers from the following demographic groups:

- Single facility owners;
- Local governments (schools, airports, county shops, etc.);
- Hospitals;
- Non-commercial fueling facilities;
- Eastern Montana.

If you are willing to provide input, please contact:

Bill Rule
Phone: (406) 444-0793
E-mail: brule@mt.gov.

I'll come meet with you this spring or early summer. ■

State of Montana Information Technology Project Excellence Awards

DEQ's Underground Storage Tank Program was the recipient of one of the first State of Montana Information Technology Project Excellence Awards. The awards are presented to state agencies for projects that use IT to meet business needs in a creative and effective manner. DEQ's TankHelper program, **http://app.mt.gov/tank/**, won the top award in the category of *Innovation and Creativity*. State agencies submitted their services for consideration in August 2007 to the IT Selection Committee heading up the Excellence Awards. Submissions were evaluated on the effective deployment of information technology, measurable improvements in business or administrative processes, service level improvements for customers, and the use of best practices. The awards were presented at the 2007 Montana Government Information Technology Conference held in Helena in early December 2007. TankHelper is an interactive service that offers a detailed guide to managing underground storage tanks. TankHelper also received a national *Best of the Web* award for eGovernment excellence in 2007. ■

Congratulations to Bill Rule
and everyone who made that project possible!

Montana TankHelper

Online Underground
Storage Tank Operator Training is Free & Easy!

Simply log on to TankHelper, identify your facility and proceed through the service. When you finish, you can print out a plan that will help you manage your underground storage tanks.

Training for petroleum system operators to:
- Learn about your petroleum equipment
- Understand rules and responsibilities for your facility
- Get best management practices
- Simplify complex regulations
- Create a site-specific management plan

tankhelper.mt.gov